

Message Text

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PASS TREASURY FOR SUNLEY

E. O. 11652: N/A

TAGS: EFIN, OECD

SUBJECT: FISCAL AFFAIRS WP ON TAXATION MNE'S

REFS: (A) DAF/CFA/WP6/75.6

(B) DAF/CFA/WP6/75.7

(C) DAF/CFA/WP6/75.4

1. SUMMARY: WORKING PARTY NUMBER 6 OF THE COMMITTEE ON FISCAL AFFAIRS MET MAY 22, 1975, PRECEDED BY A MEETING OF ITS SPECIAL WORKING GROUP (WG) ON MAY 20 AND 21 TO DISCUSS TAX QUESTIONS RELATED TO MNE'S. END SUMMARY.

2. RIGHTS AND SERVICES: WG CONSIDERED QUESTION OF WHETHER IT IS NECESSARY TO DISTINGUISH BETWEEN RIGHTS AND SERVICES, AND IF SO, HOW TO DEFINE AND TREAT KNOW-HOW. IT WAS NOTED THAT U. S. REGULATIONS PROVIDE DIFFERENT TREATMENT FOR RIGHTS AND SERVICES: KNOW-HOW IS TREATED AS A RIGHT. WG ALSO CONSIDERED WHETHER IT NECESSARY TO DISTINGUISH BETWEEN SALES OF INTANGIBLE PROPERTY AND LICENSING TO USE SUCH PROPERTY. SOME DELEGATES BELIEVE SALES SHOULD BE TREATED SEPARATELY.

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SUCH DISTINCTION IS NOT NECESSARY UNDER U. S.

REGULATIONS.

3. PRICING: WG DISCUSSION FOCUSED ON FACTORS TO BE CONSIDERED IN DETERMINING ARMS LENGTH PRICE. DELEGATES FOUND FACTORS LISTED IN U. S. REGULATIONS QUITE USEFUL. NO GENERAL AGREEMENT WAS REACHED AS TO RELATIVE IMPORTANCE OF DIFFERENT FACTORS, EXCEPT THAT COST OF DEVELOPING PROPERTY PROBABLY LESS IMPORTANT THAN MOST OTHER FACTORS.

4. COST SHARING: SEVERAL WG DELEGATES BELIEVED THAT COST SHARING ARRANGMENTS MAY INVOLVE TAX AVOIDANCE EITHER THROUGH AVOIDANCE OF WITHHOLDING TAXES (COST SHARING BEING AN ADVANCE PAYMENT OF ROYALTIES) OR BECAUSE OF DIFFICULTY IN DETERMINING EXPECTED BENEFITS FOR EACH PARTICIPANT. WP DECIDED THAT ADDITIONAL INFORMATION WAS NEEDED AND A QUESTIONNAIRE ON COST SHARING ARRANGEMENTS WAS PREPARED FOR SUBMISSION TO BIAC.

5. TAX HAVENS: WP6 DISCUSSED REF A COMPARING U. S. AND GERMAN MEASURES TO COMBAT USE OF TAX HAVENS. U. S. DEL DESCRIBED RECENT AMENDMENTS TO SUBPART F OF U. S. TAX CODE.

6. STANDARDS OF CONDUCT: ALTHOUGH NOT ON THE ORIGINAL AGENDA, WP6 CONSIDERED GENERAL QUESTION DRAFT STANDARDS OF CONDUCT IN FIELD OF TAXATION (NOTED IN LATTER PORTION REF B). WP6 REMAINED GENERALLY UNENTHUSIASTIC ABOUT THIS EXERCISE. IF REQUIRED TO CHOOSE, COUNTRY DELS (EXCEPT U. S. AND NETHERLANDS) FAVORED ALTERNATIVE B OVER ALTERNATIVE A. FRENCH AND BELGIAN DELS WILL REDRAFT ALTERNATIVE B. SECRETARIAT POINTED OUT THAT THREE WP6 COUNTRY DELS HAD SUPPORTED OPPOSITE ALTERNATIVE THAN HAD BEEN SUPPORTED BY THEIR DELS IN COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES. THIS WOULD SEEM TO INDICATE THAT EXERCISE HAS NOT REACHED THE POINT WHERE IT IS BEING COORDINATED WITHIN MEMBER GOVERNMENTS.

7. TREATMENT OF LOANS: REF C ON TREATMENT OF LOANS WAS LIMITED OFFICIAL USE

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APPROVED FOR SUBMISSION TO FISCAL AFFAIRS COMMITTEE.

8. NEXT MEETING OF WG SCHEDULED FOR OCTOBER 13 AND 14, 1975. PRELIMINARY DRAFT ON TREATMENT OF RIGHTS WILL BE CONSIDERED, AS WELL AS BIAC RESPONSE TO QUESTIONNAIRE ON COST SHARING ARRANGEMENTS (IF AVAILABLE BY MEETING TIME). MEETING WILL ALSO FOCUS ON TREATMENT OF SERVICES. WP6 WILL THEN MEET ON OCTOBER 15 TO CONSIDER FRENCH AND

BELGIAN MEASURES TO COMBAT USE OF TAX HAVENS.
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